



V. Glenn Coffee  
Secretary of State

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

March 1, 2012

Mr. Daniel P. Skerbitz  
P.O. Box 35404  
Tulsa, OK 74153

Dear Mr. Skerbitz:

This will acknowledge receipt of the petition for filing which has been designated as:

State Question Number 761  
Initiative Petition Number 395

filed this 1st day of March, 2012 at 3:30 p.m.

Pursuant to 34 O.S. § 9, after the filing of the petition and prior to the gathering of signatures, the Secretary of State shall submit the proposed ballot title of this petition to the Attorney General for review as to legal correctness.

Please be aware that once the ballot title review is completed, there will be a Notice of Filing published, as required by 34 O.S. § 8, in which any citizen or citizens of the state may file a protest as to the constitutionality of the petition or the ballot title.

The circulation period for petitions, according to 34 O.S. § 8, is within ninety (90) days after such filing of an initiative petition or determination of the sufficiency of the petition by the Supreme Court, whichever is later. Should your due date fall on a weekend or holiday or a day that this office is closed for business, pursuant to 25 O.S. § 82.1 (C.) and in accordance with AG Opinion 76-195, the due date for this petition will fall on the next succeeding business day that this office is open for business.

If our office may be of further assistance, please do not hesitate to contact the Executive Legislative Division at (405) 522-4564.

Sincerely,

Michelle R. Day  
Assistant Secretary of State

**FILED**

**MAR 01 2012**

**OKLAHOMA SECRETARY  
OF STATE**

State Question No. 761 Initiative Petition No. 395

**WARNING**

**IT IS A FELONY FOR ANYONE TO SIGN AN INITIATIVE OR REFERENDUM PETITION WITH ANY NAME OTHER THAN HIS OWN, OR KNOWINGLY TO SIGN HIS NAME MORE THAN ONCE FOR THE MEASURE, OR TO SIGN SUCH PETITION WHEN HE IS NOT A LEGAL VOTER.**

**INITIATIVE PETITION**

To the Honorable Mary Fallin, Governor of Oklahoma:

We, the undersigned legal voters of the State of Oklahoma respectfully order that the following proposed amendment to the constitution be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the regular general election to be held on the 6th day of November, 2012, and each for himself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma; my residence or post office are correctly written after my name. The time for filing this petition expires ninety days from March 1<sup>st</sup>, 2012. The question we herewith submit to our fellow voters is:

Shall the following proposed new Article 2, Section 38 of the Constitution be approved?

**BALLOT TITLE**

This measure adds a new section to the Oklahoma Constitution to reconcile recent scientific developments with the definition of a human being for the purpose of equal protection under the law. The proposed amendment expands the legal definition of humanity or "personhood" to include every human being, regardless of place of residence, race, gender, age, disability, health, level of function, condition of dependency, or method of reproduction, from the beginning of biological development to the end of natural life. The amendment applies the term "person" under the Oklahoma Constitution equally to every human being so defined and prohibits the intentional killing of any such "person" without due process of law.

Shall the following proposed new Article 2, Section 38 of the Constitution be approved?

For the proposal – YES

Against the proposal – NO

A "YES" vote is a vote in favor of this proposal. A "NO" vote is against this measure.

**BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA THAT A NEW ARTICLE 2, SECTION 38 OF THE OKLAHOMA CONSTITUTION BE APPROVED:**

**RIGHTS OF THE PERSON.**

**A "PERSON" AS REFERRED TO IN ARTICLE 2, SECTION 2 OF THIS CONSTITUTION SHALL BE DEFINED AS ANY HUMAN BEING FROM THE BEGINNING OF THE BIOLOGICAL DEVELOPMENT OF THAT HUMAN BEING TO NATURAL DEATH. THE INHERENT RIGHTS OF SUCH PERSON SHALL NOT BE DENIED WITHOUT DUE PROCESS OF LAW AND NO PERSON AS DEFINED HEREIN SHALL BE DENIED EQUAL PROTECTION UNDER THE LAW DUE TO AGE, PLACE OF RESIDENCE OR MEDICAL CONDITION.**

Name and Address of Proponents:

Mr. Daniel P. Skerbitz  
P.O. Box 35404  
Tulsa, OK 74153

Rep. Mike Reynolds  
2609 SW 107<sup>th</sup> St.  
Oklahoma City, OK 73170

Mr. T. Russell Hunter  
2700 Creekview Place  
Norman, OK 73071

## SIGNATURES

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure adds a new section to the Oklahoma Constitution to reconcile recent scientific developments with the definition of a human being for the purpose of equal protection under the law. The proposed amendment expands the legal definition of humanity or "personhood" to include every human being, regardless of place of residence, race, gender, age, disability, health, level of function, condition of dependency, or method of reproduction, from the beginning of biological development to the end of natural life. The amendment applies the term "person" under the Oklahoma Constitution equally to every human being so defined and prohibits the intentional killing of any such "person" without due process of law.

1.	SIGNATURE OF LEGAL VOTER	PRINT NAME	ADDRESS	CITY	ZIP	COUNTY
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20.	SIGNATURE OF LEGAL VOTER	PRINT NAME	ADDRESS	CITY	ZIP	COUNTY

**AFFIDAVIT**

STATE OF OKLAHOMA )  
 )  
COUNTY OF \_\_\_\_\_ )

ss.

I, \_\_\_\_\_, being first duly sworn, say: That I am a qualified elector of the State of Oklahoma and that signed this sheet of the foregoing petition, and each of them signed his name thereto in my presence:

- |           |           |
|-----------|-----------|
| 1. _____  | 11. _____ |
| 2. _____  | 12. _____ |
| 3. _____  | 13. _____ |
| 4. _____  | 14. _____ |
| 5. _____  | 15. _____ |
| 6. _____  | 16. _____ |
| 7. _____  | 17. _____ |
| 8. _____  | 18. _____ |
| 9. _____  | 19. _____ |
| 10. _____ | 20. _____ |

I believe that each has stated his name, post office address, and residence correctly, and that each signer is a legal voter of the State of Oklahoma and county of his residence as stated.

\_\_\_\_\_  
Circulator's Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
Zip Code

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 20 \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
Zip Code

My Commission Expires: \_\_\_\_\_

My Commission Number: \_\_\_\_\_

V. Glenn Coffee  
Secretary of State



Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

March 2, 2012

The Honorable E. Scott Pruitt  
Attorney General  
313 NE 21st Street  
Oklahoma City, Oklahoma 73105

Dear Attorney General Pruitt:

You are hereby notified that Mr. Dan Skerbitz, P.O. Box 35404, Tulsa, Oklahoma 74153, filed an initiative petition on March 1, 2012, with the Secretary of State. This petition is designated as State Question Number 761, Initiative Petition Number 395.

Pursuant to 34 O.S., § 8, the signatures for this petition are required to be filed within ninety (90) days after the filing of the petition or determination of the sufficiency of the petition by the Supreme Court as provided in this section, whichever is later. The signature requirement for this petition is 155, 216.

The proposed ballot title is hereby submitted to you for review as to legal correctness pursuant to the provisions of 34 O.S. § 9(D).

If additional information is needed from this office, or if we may be of further assistance, please contact me.

Sincerely,

V. Glenn Coffee  
Secretary of State

A handwritten signature in black ink that reads "Michelle R. Day".

Michelle R. Day  
Assistant Secretary of State

Enclosure: State Question 761

V. Glenn Coffee  
Secretary of State



Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

March 2, 2012

The Honorable Mary Fallin  
Governor, State of Oklahoma  
Room 212, State Capitol  
Oklahoma City, Ok 73105

Dear Governor Fallin:

Please be advised that Mr. Dan Skerbitz, P.O. Box 35404, Tulsa, Oklahoma 74153, filed an initiative petition on March 1, 2012, with the Secretary of State. This petition is designated as State Question Number 761, Initiative Petition Number 395.

Pursuant to 34 O.S., § 8, the signatures for this petition are required to be filed within ninety (90) days after the filing of the petition or determination of the sufficiency of the petition by the Supreme Court as provided in this section, whichever is later. The signature requirement for this petition is 155, 216.

The proposed ballot title has been submitted to the Attorney General for review as to legal correctness pursuant to the provisions of 34 O.S. § 9 (D).

If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

V. Glenn Coffee  
Secretary of State

Michelle R. Day  
Assistant Secretary of State

Enclosure: State Question 761

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MAR 02 2012

OFFICE OF THE  
GOVERNOR

V. Glenn Coffee  
Secretary of State



Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

March 2, 2012

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MAR 02 2012

STATE ELECTION  
BOARD

The Honorable Paul Ziriaux  
Secretary, Oklahoma State Election Board  
Room 3, State Capitol  
Oklahoma City, Oklahoma 73105

Dear Secretary Ziriaux:

Please be advised that Mr. Dan Skerbitz, P.O. Box 35404, Tulsa, Oklahoma 74153, filed an initiative petition on March 1, 2012, with the Secretary of State. This petition is designated as State Question Number 761, Initiative Petition Number 395.

Pursuant to 34 O.S., § 8, the signatures for this petition are required to be filed within ninety (90) days after the filing of the petition or determination of the sufficiency of the petition by the Supreme Court as provided in this section, whichever is later. The signature requirement for this petition is 155, 216.

The proposed ballot title has been submitted to the Attorney General for review as to legal correctness pursuant to the provisions of 34 O.S. § 9 (D).

If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

V. Glenn Coffee  
Secretary of State

A handwritten signature in cursive script that reads 'Michelle R. Day'.

Michelle R. Day  
Assistant Secretary of State

Enclosure: State Question 761



E. SCOTT PRUITT  
ATTORNEY GENERAL OF OKLAHOMA

**FILED**

MAR 08 2012

OKLAHOMA SECRETARY  
OF STATE

March 8, 2012

Glenn Coffee, Secretary of State  
Office of the Secretary of State  
2300 N. Lincoln Blvd., Room 101  
Oklahoma City, Oklahoma 73105-4897

Dear Secretary Coffee:

**Re: Ballot Title for State Question No. 761, Initiative Petition No. 395**

Dear Secretary Coffee:

In accordance with the provisions of 34 O.S.2011, § 9(D), we have reviewed the proposed Ballot Title for the above-referenced State Question and conclude that it does not comply with applicable laws for the following reasons:

1. It does not adequately explain the effect of the proposition as, among other things:
  - it does not define the phrase “the beginning of the biological development” nor explain how that phrase may apply to medical procedures and contraceptive measures;
  - it defines “person” in a manner broader than the measure.

2. The measure reflects partiality in its composition as it states that it “reconcile[s] recent scientific developments with the definition of a human being for the purpose of equal protection under the law.”

Having found that the Ballot Title does not comply with applicable laws, we will, in accordance with the provisions of 34 O.S.2011, § 9(D), within ten (10) business days, prepare a Ballot Title which complies with the law.

Sincerely,

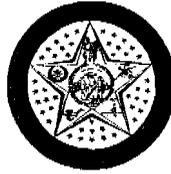
E. SCOTT PRUITT  
ATTORNEY GENERAL

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OKLAHOMA SECRETARY  
OF STATE

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E. SCOTT PRUITT  
ATTORNEY GENERAL OF OKLAHOMA

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MAR 19 2012  
OKLAHOMA SECRETARY  
OF STATE

March 16, 2012

Glenn Coffee, Secretary of State  
Office of the Secretary of State  
2300 N. Lincoln Blvd., Room 101  
Oklahoma City, Oklahoma 73105-4897

**Re: Ballot Title for State Question No. 761, Initiative Petition No. 395**

Dear Secretary Coffec:

Having found that the proposed ballot title for the above-referenced state question did not comply with applicable laws, we have, in accordance with the provisions of 34 O.S.2011, § 9(D), prepared the following Ballot Title. As a Title 34 Ballot Title review, the following does not constitute an Attorney General Opinion on either the constitutionality of the underlying proposed changes to Oklahoma law or the potential preemptive effect of federal law. The Ballot Title reads as follows:

**Ballot Title**

This measure adds a new section of the Oklahoma Constitution.

The section defines a "person" for purposes of Article 2, Section 2 of the Oklahoma Constitution, which provides all persons with the inherent right to life, liberty, and the pursuit of happiness. The measure defines "person" as any human being from the beginning of biological development to natural death. Biological development of a human being begins at fertilization, which is the fusion of a female egg with a human male sperm to form a new cell.

The measure vests state constitutional inherent rights, including rights to equal protection regardless of age, place of residence or medical condition and due process rights to "persons" as defined by this measure. The measure thus generally prohibits abortion.

The measure does not prohibit contraceptive methods that prevent the creation of a "person" as defined by this measure. The measure would

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MAR 19 2012  
OKLAHOMA SECRETARY  
OF STATE

prohibit contraception methods that result in termination of a "person."

The measure would also protect "persons" created in a laboratory, which would affect, but not prohibit, medical procedures such as in vitro fertilization. For example, "persons" created in a laboratory as part of the medical procedure could not be deliberately destroyed.

**SHALL THE PROPOSAL BE APPROVED?**

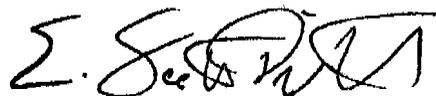
**FOR THE PROPOSAL - YES**

\_\_\_\_\_

**AGAINST THE PROPOSAL - NO**

\_\_\_\_\_

Respectfully submitted,



E. Scott Pruitt  
Attorney General

ESP/ab

V. Glenn Coffee  
Secretary of State



Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

March 19, 2012

Cindy Shea  
Oklahoma Press Service  
3601 N. Lincoln  
Oklahoma City, OK 73105

Dear Ms. Shea:

Please publish the attached Notice of Filing for State Question Number 761, Initiative Petition Number 395. Pursuant to 34 O.S. § 8, the publication must appear in at least one newspaper of general circulation in the State of Oklahoma. Please publish in *The Oklahoman*, *Tulsa World*, and the *Journal Record* as soon as possible. As always, we ask you to provide us with verified proof of publication of the Notice.

Should you have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink that reads "Michelle R. Day". The signature is fluid and cursive, with the first name being the most prominent.

Michelle R. Day  
Assistant Secretary of State

enc.

cc: Daniel Skerbitz  
Rep. Mike Reynolds  
T. Russell Hunter

NOTICE OF THE FILING OF  
STATE QUESTION NUMBER 761,  
INITIATIVE PETITION NUMBER 395

NOTICE is hereby given that on March 1, 2012, State Question Number 761, Initiative Petition Number 395 was filed in the Office of the Secretary of State. The petition appears on its face to sufficiently meet the statutory requirements for filing with the Office of the Secretary of State. The Ballot Title, as rewritten by the Attorney General pursuant to state statutes, states:

This measure adds a new section of the Oklahoma Constitution.

The section defines a "person" for purposes of Article 2, Section 2 of the Oklahoma Constitution, which provides all persons with the inherent right to life, liberty, and the pursuit of happiness. The measure defines "person" as any human being from the beginning of biological development to natural death. Biological development of a human being begins at fertilization, which is the fusion of a female egg with a human male sperm to form a new cell.

The measure vests state constitutional inherent rights, including rights to equal protection regardless of age, place of residence or medical condition and due process rights to "persons" as defined by this measure. The measure thus generally prohibits abortion.

The measure does not prohibit contraceptive methods that prevent the creation of a "person" as defined by this measure. The measure would prohibit contraception methods that result in termination of a "person."

The measure would also protect "persons" created in a laboratory, which would affect, but not prohibit, medical procedures such as in vitro fertilization. For example, "persons" created in a laboratory as part of the medical procedure could not be deliberately destroyed.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL – YES

\_\_\_\_\_

AGAINST THE PROPOSAL – NO

\_\_\_\_\_

NOTICE is hereby given that as provided in 34 O.S. §§ 8 and 10, any citizen or citizens of the state may file a protest as to the constitutionality of the petition or as to the ballot title, by a written notice to the Supreme Court and to the proponents filing the petition. Proponents filing are: Mr. Daniel P. Skerbitz, P.O. Box 35404, Tulsa, OK 74153; Rep. Mike Reynolds, 2609 S.W. 107<sup>th</sup> St., Oklahoma City, OK 73170; and Mr. T. Russell Hunter, 2700 Creekview Place, Norman, OK 73071. Any such protest must be filed within ten (10) days after this publication. A copy of the protest shall also be filed with the Secretary of State.

V. Glenn Coffee  
Secretary of State

FILED  
SUPREME COURT  
STATE OF OKLAHOMA  
MAR 29 2012  
MICHAEL S. RICHIE  
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In re: )  
INITIATIVE PETITION NO. 395 )  
STATE QUESTION NO. 761 )

Case No. #110545

PROTEST TO THE INITIATIVE PETITION

To: THE SUPREME COURT OF OKLAHOMA

-AND-

Daniel P. Skerbitz  
P.O. Box 35404  
Tulsa, OK 74153

Rep. Mike Reynolds  
2609 SW 107<sup>th</sup> St.  
Oklahoma City, OK 73170

T. Russell Hunter  
2700 Creekview Place  
Norman, OK 73071

V. Glenn Coffee  
Secretary of State  
2300 N. Lincoln Blvd., Ste. 101  
Oklahoma City, OK 73105-4897

**FILED**

MAR 29 2012

OKLAHOMA SECRETARY  
OF STATE

Brittany Mays Barber, Larry Burns, D.O., Heather Hall, Eli Reshef, M.D., Martha Skeeters, Ph.D., and Dana Stone, M.D., all of whom are citizens of Oklahoma, protest the legal sufficiency of Initiative Petition No. 395, State Question No. 761 ("IP 395"), as follows:

Preliminary Statement

1. In 1992, this Court rejected an attempt to use the initiative process to ban abortion, holding that the initiative process could not be used to curtail rights secured to women by the

federal Constitution. *In re Initiative Petition No. 349, State Question No. 642*, 1992 OK 122, 838 P.2d 1. In the twenty years since that decision, courts have repeatedly reaffirmed the federal Constitution's protections for a woman's right to decide whether to continue or interrupt a pregnancy.

2. The amendment to the Oklahoma Constitution proposed by IP 395 is intended to, and will, ban abortion in direct violation of both the federal Constitution and this Court's clear declaration that Oklahoma's initiative process may not be invoked for that purpose. Further, it would infringe on a woman's federal constitutional right to decide whether and when to conceive by banning most forms of contraception and effectively prohibiting medical interventions, like *in vitro* fertilization, that assist with conception. In addition, IP 395 violates Art. 24, § 1, of the Oklahoma Constitution because it addresses more than one subject. Finally, IP 395 contains a statement of the gist that is so misleading and inaccurate that it fails to satisfy the requirements of 34 Okla. Stat. § 3.

### **Background**

3. On March 1, 2012, the proponents of IP 395 filed that petition with the Secretary of State. *See* Letter from Sec'y of State V. Glenn Coffee to Daniel P. Skerbitz (Mar. 1, 2012), *available at*: <https://www.sos.ok.gov/documents/questions/761.pdf>. In a press release issued in conjunction with the filing of IP 395, one of the proponents stated that the goal of filing IP 395 was "to stop abortion. As supreme law of the state, the Oklahoma Personhood Amendment, guaranteeing the right to life of all people, will, necessarily, have the greatest impact to that end." *See* Keith Ashley, *Pro-life Citizens Launch Initiative to Guarantee Personhood Rights in Oklahoma*, Personhood Oklahoma (March 2, 2012), <http://personhoodoklahoma.com/news/2012/03/pro-life-citizens-launch-initiative-to-guarantee-personhood-rights-in-oklahoma/>.

4. On March 8, 2012, the Attorney General certified that IP 395's ballot title "[did] not comply with applicable laws" because it failed to "adequately explain the effect" of the initiative and "reflects partiality in its composition." Letter from Att'y Gen. E. Scott Pruitt to Sec'y of State V. Glenn Coffee (Mar. 8, 2012), *available at*: <https://www.sos.ok.gov/documents/questions/761.pdf>. The Attorney General advised that he intended to rewrite the ballot title. *Id.*

5. The Attorney General identified two examples of the ballot title's failure to adequately explain the effect of the initiative: the ballot title "[did] not define the phrase 'the beginning of the biological development' nor explain how that phrase may apply to medical procedures and contraceptive measures"; and the ballot title "define[d] 'person' in a manner broader than the measure." *Id.*

6. The Attorney General explained that IP 395's ballot title reflected "partiality in its composition as it states that it 'reconcile[s] recent scientific developments with the definition of a human being for the purpose of equal protection under the law.'" *Id.*

7. On March 19, 2012, the Secretary of State received the ballot title prepared by the Attorney General. As rewritten by the Attorney General, the ballot title states:

This measure adds a new section of the Oklahoma Constitution.

The section defines a "person" for purposes of Article 2, Section 2 of the Oklahoma Constitution, which provides all persons with the inherent right to life, liberty, and the pursuit of happiness. The measure defines "person" as any human being from the beginning of biological development to natural death. Biological development of a human being begins at fertilization, which is the fusion of a female egg with a human male sperm to form a new cell.

The measure vests state constitutional inherent rights, including rights to equal protection regardless of age, place of residence or medical condition and due process rights to "persons" as defined by this measure. The measure thus generally prohibits abortion.

The measure does not prohibit contraceptive methods that prevent the creation of a “person” as defined by this measure. The measure would prohibit contraception methods that result in termination of a “person.”

The measure would also protect “persons” created in a laboratory, which would affect, but not prohibit, medical procedures such as in vitro fertilization. For example, “persons” created in a laboratory as part of the medical procedure could not be deliberately destroyed.

Letter from Att’y Gen. E. Scott Pruitt to Sec’y of State V. Glenn Coffee (Mar. 16, 2012), available at: <https://www.sos.ok.gov/documents/questions/761.pdf>.

8. The ballot title, as rewritten by the Attorney General, does not contain the statement that the initiative “reconcile[s] recent scientific developments with the definition of a human being for the purpose of equal protection under the law.” *Id.*

9. Dan Skerbitz, one of the proponents of IP 395, said publicly, “We are quite pleased with the AG rendering of the ballot title. We think it accurately reflects both the actual wording of the amendment and its effects.” Barbara Hoberock, *Attorney general revises ‘personhood’ petition wording*, Tulsa World, March 25, 2012. [http://www.tulsaworld.com/news/article.aspx?subjectid=336&articleid=20120325\\_16\\_A26\\_OKLAHO116835](http://www.tulsaworld.com/news/article.aspx?subjectid=336&articleid=20120325_16_A26_OKLAHO116835).

10. On March 22, 2012, the Secretary of State published notice of the filing of IP 395 in newspapers of record in Oklahoma.

#### **IP 395 Violates the Fourteenth Amendment to the U.S. Constitution.**

11. The amendment to the Oklahoma Constitution proposed by IP 395 would confer rights on a fertilized egg that trump the rights of each woman to determine whether and when to conceive and whether to carry a pregnancy to term. Thus, the amendment would have far-reaching effects, including but not limited to (i) banning abortion without exception, and (ii) interfering with a woman’s exercise of her right to decide whether and when to conceive, including the use of contraception or medical interventions like *in vitro* fertilization.

12. By conferring constitutional rights on a fertilized egg, the amendment to the Oklahoma Constitution proposed by IP 395 would clearly ban abortion, as its proponents intend it to do.

13. In addition, conferring these rights on a fertilized egg would effectively prohibit contraceptives, like birth control pills and intrauterine devices, whose possible mechanisms of action include preventing a fertilized egg from implanting.

14. Further, IP 395 would effectively ban medical interventions like *in vitro* fertilization, which necessarily involves fertilizing eggs that are very often not successfully implanted.

15. Moreover, IP 395 would have potentially dire implications for a woman who needs medical treatment for ectopic pregnancy, a health-endangering and potentially life-endangering condition which occurs when a fertilized egg implants outside a woman's uterus, including by preventing her from receiving such treatment; for an incomplete miscarriage; or for particularly dangerous circumstances that can arise in the context of a high-risk pregnancy.

16. For the foregoing reasons, the amendment proposed by IP 395 violates the right to decide whether and when to "beget and bear a child," which is guaranteed to women by the Fourteenth Amendment of the U.S. Constitution. *See Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 849-51 (1992); *Carey v. Population Servs. Int'l*, 431 U.S. 678 (1977); *Roe v. Wade*, 410 U.S. 113 (1973); *Eisenstadt v. Baird*, 405 U.S. 438 (1972); *Griswold v. Connecticut*, 381 U.S. 479 (1965); *Skinner v. State of Okla. ex rel. Williamson*, 316 U.S. 535 (1942). As this Court has explicitly held, an initiative whose enforcement would violate federal constitutional protections for reproductive liberty is invalid and cannot appear on the ballot. *In re Initiative Petition No. 349, State Question No. 642*, 1992 OK 122, 838 P.2d 1. *See also* Art.1, §1, Okl.

Const. ("The State of Oklahoma is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.")

**IP 395 Violates the Single-Subject Rule.**

17. The amendment proposed by IP 395 contains two unrelated subjects in violation of Art. 24, § 1, of the Oklahoma Constitution.

18. First, the amendment would redefine "person" for purposes of Art. II, § 2, of the Oklahoma Constitution to include a fertilized egg and confer due process and equal protection rights on each "person" as re-defined.

19. Second, the amendment would expand the bases for equal protection of the laws under Art. II, § 7, of the Oklahoma Constitution, by adding age, place of residence, and medical condition as protected classes.

20. Voters might support expanding the equal protection guarantee to include those three protected classes, but not redefining "person," or *vice versa*.

**Statement of the Gist**

21. The statement of the gist of the amendment proposed by IP 395 is identical to the ballot title that was originally submitted with IP 395, which the Attorney General deemed not to be in compliance with applicable laws.

22. The signature sheet for any petition to amend the Constitution must contain a "simple statement of the gist of the proposition." Okla. Stat. tit. 34, § 3. This Court has explained that a statement of the gist "should be sufficient that the signatories are at least put on notice of the changes being made." *In re Initiative Petition No. 384, State Question No. 731*, 2007 OK 48, ¶¶ 7, 10, 164 P.3d 125, 129.

23. The statement of the gist of IP 395 fails to put voters on notice of the actual effect of IP 395 in at least the following ways:

- A. The statement of the gist includes the assertion, deemed to reflect “partiality” by the Attorney General, that the amendment proposed by IP 395 “reconcile[s] recent scientific developments with the definition of a human being for the purpose of equal protection under the law.” In addition to being inappropriately partial, this statement is misleading for at least two reasons. First, the use of that phrase suggests inappropriately and without evidence that the amendment is supported by scientific research. Second, the amendment is far broader than simply expanding the definition of human being for purposes of equal protection; rather, the amendment would redefine “person” as used in Art. II, § 2, (the inherent rights clause) of the Oklahoma Constitution, and secure due process and equal protection rights for every “person.”
- B. The statement of the gist misstates the amendment’s effect by claiming that the amendment “expands the legal definition of humanity or ‘personhood.’” The amendment redefines “person” as used in Art. II, § 2, of the Oklahoma Constitution and grants due process and equal protection rights to those persons, but it does not redefine “humanity” or “personhood.”
- C. The statement of the gist misstates the amendment’s alteration of the constitutional standards for equal protection of the law, by claiming that the amendment would prohibit discrimination on the following bases: “place of residence, race, gender, age, disability, health, level of function, condition of dependency, or method of reproduction.” The text of the proposed

amendment, however, prohibits discrimination based on a different and shorter list of criteria: “age, place of residence or medical condition.” Moreover, the statement of the gist misstates the effect of the proposed amendment by failing to explain the effect of adding the protected classes of age, place of residence or medical condition to the equal protection guarantee.

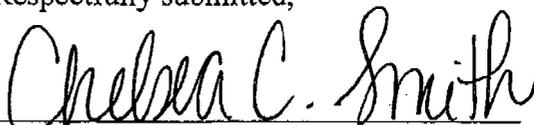
- D. The statement of the gist uses the vague and confusing phrases “beginning of biological development” – which the Attorney General found to be unclear in the proponents’ original ballot title – and “end of natural life.”
- E. The statement of the gist inaccurately claims that the amendment proposed by IP 395 would “prohibit[] the intentional killing of any such “person” without due process of law.” This statement implies that the amendment would affect only intentional killing, whereas the amendment contains no language that would limit its application to killing or to intentional acts.
- F. The statement of the gist misstates the effect of the amendment proposed by IP 395 because, among other things, it does not explain that the amendment would ban abortion and interfere with women’s right to decide whether and when to conceive by banning most forms of contraception and medical interventions, such as *in vitro* fertilization, that assist with conception.

24. Because of these inaccuracies and the multiple deceptive and misleading assertions in the statement of the gist, it could not possibly put a voter on notice of the effect of the amendment proposed by IP 395. Thus, a voter could not make an informed decision about whether to sign the petition.

WHEREFORE, the Protestants respectfully request that this Court declare IP 395 unconstitutional, insufficient as a matter of law and invalid for all purposes, for the reasons set forth above.

Dated: March 29, 2012

Respectfully submitted,



Anne E. Zachritz, OBA No. 15608  
Chelsea C. Smith, OBA No. 30728  
ANDREWS DAVIS  
A PROFESSIONAL CORPORATION  
ATTORNEYS AND COUNSELLORS AT LAW  
100 N. Broadway, Ste. 3300  
Oklahoma City, OK 73102-8812  
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Email: [aezachritz@andrewsdavis.com](mailto:aezachritz@andrewsdavis.com)  
[ccsmith@andrewsdavis.com](mailto:ccsmith@andrewsdavis.com)

and

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Phone: (918) 749-3313  
Fax: (918) 742-1819  
Email: [mh@hardwicklawoffice.com](mailto:mh@hardwicklawoffice.com)

and

Michelle Movahed\*  
New York Bar Registration No. 4552063  
Illinois Bar No. 62918636  
David Brown\*  
New York Bar Registration No. 4863544  
CENTER FOR REPRODUCTIVE RIGHTS  
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New York, NY 10005-3904  
Phone: (917) 637-3600  
Fax: (917) 637-3666  
Email: [mmovahed@reprorights.org](mailto:mmovahed@reprorights.org)  
[dbrown@reprorights.org](mailto:dbrown@reprorights.org)  
*\*Out-of-State Attorney Applications Filed.*

and

Ryan D. Kiesel  
OBA No. 21254  
ACLU OF OKLAHOMA FOUNDATION  
3000 Paseo Dr.  
Oklahoma City, OK 73103  
Phone: (405) 524-8511  
Email: [rkiesel@acluok.org](mailto:rkiesel@acluok.org)

and

Susan Talcott Camp\*  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION  
125 Broad St.  
New York, NY 10004  
Phone: (212) 549-2632  
Email: [tcamp@aclu.org](mailto:tcamp@aclu.org)  
*\*Out-of-State Attorney Application in Progress.*

ATTORNEYS FOR PROTESTANTS

**CERTIFICATE OF SERVICE AND MAILING**

I hereby certify that on the 29th day of March 2012, a true and correct copy of the above PROTEST TO THE INITIATIVE PETITION was filed with the Supreme Court of Oklahoma, and with the Secretary of State and was personally served on the following person at the address indicated:

V. Glenn Coffee  
Secretary of State  
2300 N. Lincoln Blvd., Ste. 101  
Oklahoma City, OK 73105-4897

In addition, a true and correct copy of the above PROTEST TO THE INITIATIVE PETITION was mailed, postage prepaid, via certified mail to the following persons at the addresses indicated:

Daniel P. Skerbitz  
P.O. Box 35404  
Tulsa, OK 74153

Daniel P. Skerbitz  
4942 S. 72<sup>nd</sup> E. Ave.  
Tulsa, OK 74145

Rep. Mike Reynolds  
2609 SW 107<sup>th</sup> St.  
Oklahoma City, OK 73170

T. Russell Hunter  
2700 Creekview Place  
Norman, OK 73071



CHELSEA C. SMITH

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

MAR 29 2012

MICHAEL S. RICHIE  
CLERK

In re: )  
INITIATIVE PETITION NO. 395 )  
STATE QUESTION NO. 761 )

Case No. #110545

FILED

MAR 29 2012

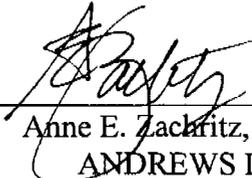
OKLAHOMA SECRETARY  
OF STATE

ENTRY OF APPEARANCE

The undersigned attorney hereby appears as counsel for the Protestants in this case.

Dated: March 29, 2012.

Respectfully submitted,

  
\_\_\_\_\_  
Anne E. Zachritz, OBA No. 15608  
ANDREWS DAVIS, P.C.

ATTORNEYS AND COUNSELLORS AT LAW  
100 North Broadway Avenue, Suite 3300  
Oklahoma City, OK 73102  
Telephone: (405) 272-9241  
Facsimile: (405) 235-8786  
E-mail: aezachritz@andrewsdavis.com

ATTORNEYS FOR PROTESTANTS

**CERTIFICATE OF MAILING TO PARTIES**

This is to certify that a true and correct copy of the above and foregoing was mailed, postage prepaid, this 29th day of March, 2012, to:

Mr. Daniel P. Skerbitz  
P.O. Box 35404  
Tulsa, OK 74153

Mr. Daniel P. Skerbitz  
4942 S. 72<sup>nd</sup> E. Ave.  
Tulsa, OK 74145

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2700 Creekview Place  
Norman, OK 73071

V. Glenn Coffee  
Secretary of State  
2300 N. Lincoln Blvd., Ste. 101  
Oklahoma City, OK 73105-4897



---

Anne E. Zachritz

FILED  
SUPREME COURT  
STATE OF OKLAHOMA  
MAR 29 2012

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

MICHAEL S. RICHIE  
CLERK

#110545

In re: )  
INITIATIVE PETITION NO. 395 )  
STATE QUESTION NO. 761 )

Case No. \_\_\_\_\_

FILED

MAR 29 2012

ENTRY OF APPEARANCE

OKLAHOMA SECRETARY  
OF STATE

The undersigned attorney hereby appears as counsel for the Protestants in this case.

Dated: March 29, 2012.

Respectfully submitted,

*Chelsea Celsor Smith*

Chelsea Celsor Smith, OBA No. 30728  
ANDREWS DAVIS, P.C.  
ATTORNEYS AND COUNSELLORS AT LAW  
100 North Broadway Avenue, Suite 3300  
Oklahoma City, OK 73102  
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Facsimile: (405) 235-8786  
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ATTORNEYS FOR PROTESTANTS

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Norman, OK 73071

V. Glenn Coffee  
Secretary of State  
2300 N. Lincoln Blvd., Ste. 101  
Oklahoma City, OK 73105-4897



---

Chelsea Celsor Smith



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Wednesday, April 04, 2012 11:56 AM

Page 1

## Proof of Publication - Order Number 12-03-81

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of TULSA WORLD - Legal, a Daily newspaper printed and published in the city of TULSA, county of Tulsa, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said TULSA WORLD - Legal in consecutive issues on the following dates-to-wit:

Insertion: 03/22/2012

That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE \$475.13

(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this 4 day of April 2012.

(Notary Public)



### NOTICE OF THE FILING OF STATE QUESTION NUMBER 761, INITIATIVE PETITION NUMBER 395

NOTICE is hereby given that on March 1, 2012, State Question Number 761, Initiative Petition Number 395 was filed in the Office of the Secretary of State. The petition appears on its face to sufficiently meet the statutory requirements for filing with the Office of the Secretary of State. The Ballot Title, as rewritten by the Attorney General pursuant to state statutes, states:

This measure adds a new section of the Oklahoma Constitution.

The section defines a "person" for purposes of Article 2, Section 2 of the Oklahoma Constitution, which provides all persons with the inherent right to life, liberty, and the pursuit of happiness. The measure defines "person" as any human being from the beginning of biological development to natural death. Biological development of a human being begins at fertilization, which is the fusion of a female egg with a human male sperm to form a new cell.

The measure vests state constitutional inherent rights, including rights to equal protection regardless of age, place of residence or medical condition and due process rights to "persons" as defined by this measure. The measure thus generally prohibits abortion.

The measure does not prohibit contraceptive methods that prevent the creation of a "person" as defined by this measure. The measure would prohibit contraception methods that result in termination of a "person."

The measure would also protect "persons" created in a laboratory, which would affect, but not prohibit, medical procedures such as in vitro fertilization. For example, "persons" created in a laboratory as part of the medical procedure could not be deliberately destroyed.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES

AGAINST THE PROPOSAL - NO

NOTICE is hereby given that as provided in 34 O.S. §§ 8 and 10, any citizen or citizens of the state may file a protest as to the constitutionality of the petition or as to the ballot title, by a written notice to the Supreme Court and to the proponents filing the petition. Proponents filing are: Mr. Daniel P. Skerbitz, P.O. Box 35404, Tulsa, OK 74153; Rep. Mike Reynolds, 2609 S.W. 107th St., Oklahoma City, OK 73170; and Mr. T. Russell Hunter, 2700 Creekview Place, Norman, OK 73071. Any such protest must be filed within ten (10) days after this publication. A copy of the protest shall also be filed with the Secretary of State.

V. Glenn Coffee  
Secretary of State

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APR 04 2012

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Page 1

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Insertion: 03/22/2012

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PUBLICATION FEE \$1,191.40

(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this 4 day of April 2012.

(Notary Public)



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V. Glenn Coffee  
Secretary of State

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Wednesday, April 04, 2012 11:56 AM

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Insertion: 03/22/2012

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PUBLICATION FEE \$67.30

(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this 4 day of April 2012.

(Notary Public)



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FOR THE PROPOSAL - YES  
AGAINST THE PROPOSAL - NO

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V. Glenn Coffee  
Secretary of State

# RECEIVED

APR 04 2012

OKLAHOMA SECRETARY  
OF STATE

**IN THE SUPREME COURT OF THE STATE OF OKLAHOMA APR - 6 2012**

**MICHAEL RICHIE  
CLERK**

In re: )  
          ) )  
INITIATIVE PETITION NO. 395 ) Case No, 110545  
          ) )  
STATE QUESTION NO. 761 )

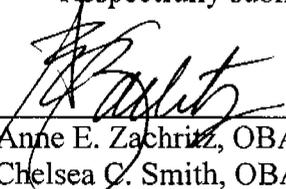
**FILED  
APR 09 2012**

**OKLAHOMA SECRETARY  
OF STATE**

**MOTION TO ASSOCIATE COUNSEL**

Pursuant to Okla. Sup. Ct. R. 1.5(a), the protestants, Brittany Mays Barber, Larry Burns, D.O., Heather Hall, Eli Reshef, M.D., Martha Skeeters, Ph.D., and Dana Stone, M.D., hereby move the Court for an Order permitting Michelle Movahed of the Center for Reproductive Rights, New York, New York, to practice in the above styled and numbered cause pursuant to the rules Creating and Controlling the Oklahoma Bar Association, 5 Okla.Stat. Ch. 1, App.1, Art.2. This Motion is supported by the attached Signed Application (Exhibit A), Certificate of Good Standing (Exhibit B), and the Certificate of Compliance from the Oklahoma Bar Association (Exhibit C), which satisfies the requirements of Article 2 §5.

Respectfully submitted,

  
\_\_\_\_\_  
Anne E. Zachritz, OBA No. 15608  
Chelsea C. Smith, OBA No. 30728  
**ANDREWS DAVIS**  
A PROFESSIONAL CORPORATION  
ATTORNEYS AND COUNSELLORS AT LAW  
100 N. Broadway, Suite 3300  
Oklahoma City, OK 73102-8812  
Telephone: (405) 272-9241  
Fax: (405) 235-8786  
Email: [aezachritz@andrewsdavis.com](mailto:aezachritz@andrewsdavis.com)  
Email: [ccsmith@andrewsdavis.com](mailto:ccsmith@andrewsdavis.com)

and

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**APR - 9 2012**

**OKLAHOMA SECRETARY  
OF STATE**

Martha M. Hardwick, OBA No. 3847  
HARDWICK LAW OFFICE  
P.O. Box 35975  
Tulsa, OK 74153-0975  
Telephone: (918) 749-3313  
Facsimile: (918) 742-1819  
Email: [mh@hardwicklawoffice.com](mailto:mh@hardwicklawoffice.com)

ATTORNEYS FOR PROTESTANTS

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of April, 2012, a true and correct copy of the above and foregoing was delivered by United States mail, postage prepaid, to the following:

V. Glenn Coffee  
Secretary of State  
2300 N. Lincoln Blvd., Ste. 101  
Oklahoma City, OK 73105-4897

Daniel P. Skerbitz  
P.O. Box 35404  
Tulsa, OK 74153

Daniel P. Skerbitz  
4942 S. 72<sup>nd</sup> E. Ave.  
Tulsa, OK 74145

Rep. Mike Reynolds  
2609 SW 107<sup>th</sup> St.  
Oklahoma City, OK 73170

T. Russell Hunter  
2700 Creekview Place  
Norman, OK 73071

  
\_\_\_\_\_  
ANNE E. ZACHRITZ

# **Exhibit A**

# APPLICATION

APPROVED



## OUT OF STATE ATTORNEY REGISTRATION

Michelle      Nicole      Movahed, Applicant, respectfully represents:  
First Name      Middle Name      Last Name

1. Applicant is an attorney at law and a member of the law firm of Center for Reproductive Rights  
with its principal offices located at 120 Wall Street, 14th Floor

New York, New York, NY, 10005  
City      County      State      Zip Code  
(917) 637-3600, (917) 637-3628, (917) 637-3666  
Telephone (Firm)      Telephone (Applicant's Direct Dial)      Fax (Applicant)

mmovahed@reprorights.org. If Applicant's office address is different from above,  
E-mail Address (Applicant)

please provide the following: \_\_\_\_\_  
Mailing Address  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
City      County      State      Zip Code

2. Applicant is admitted to practice and is a member in good standing  
(statements attached) of the bar(s) of the highest court(s) of the following  
state(s):

<u>State</u>	<u>Date of Admission</u>
State of Illinois	5/10/2007
State of New York	12/4/2007

3. Applicant is admitted to practice before the following United States District  
Courts, United States Circuit Courts of Appeal, the Supreme Court of the United  
States, and/or other tribunals on the dates indicated for each, and is presently a  
member in good standing of the bars of said courts:

<u>Tribunal</u>	<u>Date of Admission</u>
U.S. District Court for the Northern District of Illinois	October 2007
U.S. District Court for the Southern District of Illinois	October 2007
U.S. District Court for the Eastern District of New York	2007
U.S. Court of Appeals for the Ninth Circuit	12/17/2009

4. Applicant is not currently suspended or disbarred in any court except as hereinafter provided (Give particulars; e.g. court, jurisdiction, date): \_\_\_\_\_

N/A

---

5. Applicant is not currently subject to any pending disciplinary proceedings by any organization with authority to discipline attorneys at law except as hereinafter provided (Give particulars; e.g. court, discipline authority, date, status): \_\_\_\_\_

N/A

---

6. Applicant has never received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law except as hereinafter provided (Give particulars; e.g. court, discipline authority, type of discipline, date, status): \_\_\_\_\_

N/A

---

7. Applicant has never had any certificate or privilege to appear and practice before any regulatory or administrative body suspended or revoked except as hereinafter provided (Give particulars; e.g. administrative body, date, status of suspension or reinstatement): \_\_\_\_\_

N/A

---

8. Applicant seeks admission to practice in the State of Oklahoma in the following matter (give particulars; e.g. caption of case, court or agency, type of matter, party to be represented): **Note - A separate application is to be submitted for each matter in which the applicant seeks admission!**

Protest to the constitutionality of Initiative Petition no. 395, State Question no. 761,

---

to be filed as an original action in the Supreme Court of Oklahoma.

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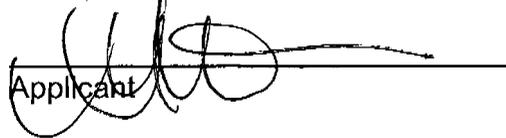
---



I am the Applicant in the above referenced matter; I have read the foregoing and know the contents thereof; the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to those matters I believe them to be true.

I further certify that I am subject to the jurisdiction of the Courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the Oklahoma Bar Association; I understand and shall comply with the standards of professional conduct required by members of the Oklahoma Bar Association; and that I am subject to the disciplinary jurisdiction of the Oklahoma Bar Association with respect to any of my actions occurring in the course of such appearance.

DATED this 26<sup>th</sup> day of March, 2012.

  
Applicant

Mail with check or money order (payable to the OBA) to:

Out-of-State Attorney Registration  
Oklahoma Bar Association  
P.O. Box 53036  
Oklahoma City, OK 73152-3036

Form 100B

Addendum to Application of Michelle Movahed for Out of State Attorney Registration

10.

<u>Party Name</u>	<u>Counsel Name</u>	<u>Address of Counsel</u>
<u>Dana Stone, MD</u>	<u>Anne Zachritz</u>	<u>See response to 9</u>
<u>Eli Reshef, MD</u>	<u>Anne Zachritz</u>	<u>See response to 9</u>
<u>Larry Burns, DO</u>	<u>Anne Zachritz</u>	<u>See response to 9</u>
<u>Heather Hall</u>	<u>Anne Zachritz</u>	<u>See response to 9</u>
<u>Brittany May</u>	<u>Anne Zachritz</u>	<u>See response to 9</u>
<u>Martha Skeeters, Ph.D.</u>	<u>Anne Zachritz</u>	<u>See response to 9</u>

All parties will also be represented by Martha M. Hardwick, O.B.A. no. 3847, of Hardwick Law Office, P.O. Box 35975, Tulsa, OK 74153.

Telephone: (918) 749-3313

Fax: (918) 742-1819

Email: [mh@hardwicklawoffice.com](mailto:mh@hardwicklawoffice.com)

# **Exhibit B**

Appellate Division of the Supreme Court  
of the State of New York  
First Judicial Department

---

I, Susanna Rojas, Clerk of the Appellate Division of the Supreme Court of the State of New York, First Judicial Department, certify that

**MICHELLE NICOLE PALLAK MOVAHED**

was duly licensed and admitted to practice as an Attorney and Counsellor at Law in all the courts of the State of New York on December 4, 2007, has duly taken and subscribed the oath of office prescribed by law, has been enrolled in the Roll of Attorneys and Counsellors at Law on file in my office, has duly registered with the administrative office of the courts, and according to the records of this court is in good standing as an attorney and counsellor at law.

In Witness Whereof, I have hereunto set my hand and affixed the seal of this court on

March 26, 2012



---

Clerk of the Court

## Certificate of Admission To the Bar of Illinois

I, Carolyn Taft Grosboll, Clerk of the Supreme Court of Illinois, do hereby certify that

Michelle Nicole Pallak Movahed

has been duly licensed and admitted to practice as an Attorney and Counselor of Law within this State; has duly taken the required oath to support the CONSTITUTION OF THE UNITED STATES and of the STATE OF ILLINOIS, and also the oath of office prescribed by law, that said name was entered upon the Roll of Attorneys and Counselors in my office on May 10, 2007 and is in good standing, so far as the records of this office disclose.

In Witness Whereof, I have hereunto placed my hand and affixed the seal of said Supreme Court, at Springfield, in said State, this Friday, March 23, 2012.

*Carolyn Taft Grosboll*

Clerk

Michelle Nicole Pallak Movahed is currently registered as an inactive attorney pursuant to Supreme Court Rule 756(a)(5), and "shall no longer be eligible to practice law" or hold herself out as being authorized to practice law in Illinois except as provided by Supreme Court Rule 756(j).

# **Exhibit C**



## Certificate of Compliance

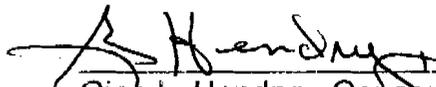
Oklahoma Bar Association  
1901 North Lincoln Boulevard  
Post Office Box 53036  
Oklahoma City, Oklahoma 73152-3036

The Oklahoma Bar Association, in response to the application of out-of-state attorney, submits the following certificate pursuant to 5 O.S. Ch.1 App.1, Art. II

1. Applicant has submitted a signed application of out-of-state attorneys, certificate(s) of good standing, and the non-refundable application fee pursuant to the Rules Creating and Controlling the Oklahoma Bar Association, 5 O.S. Ch. 1, App. 1, Art. II.
2. Date of Application: **March 27, 2012**
3. Application Number: **2012-136**
4. Applying Attorney: **Michelle Nicole Movahed  
Center for Reproductive Rights, Inc.  
120 Wall Street, 14<sup>th</sup> Floor  
New York, New York 10005**
5. The Application was: **GRANTED**

Dated this 27<sup>th</sup> day of March, 2012.



  
Gina L. Hendryx, General Counsel  
Oklahoma Bar Association

APR - 6 2012

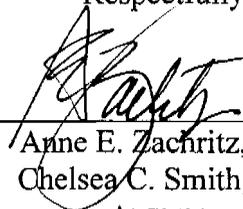
**MICHAEL RICHIE**  
**CLERK**

In re: )  
INITIATIVE PETITION NO. 395 ) Case No. 110545  
STATE QUESTION NO. 761 )

**MOTION TO ASSOCIATE COUNSEL**

Pursuant to Okla. Sup. Ct. R. 1.5(a), the protestants, Brittany Mays Barber, Larry Burns, D.O., Heather Hall, Eli Reshef, M.D., Martha Skeeters, Ph.D., and Dana Stone, M.D., hereby move the Court for an Order permitting David Brown of the Center for Reproductive Rights, New York, New York, to practice in the above styled and numbered cause pursuant to the rules Creating and Controlling the Oklahoma Bar Association, 5 Okla.Stat. Ch. 1, App.1, Art.2. This Motion is supported by the attached Signed Application (Exhibit A), Certificate of Good Standing (Exhibit B), and the Certificate of Compliance from the Oklahoma Bar Association (Exhibit C), which satisfies the requirements of Article 2 §5.

Respectfully submitted,



Anne E. Zachritz, OBA No. 15608  
Chelsea C. Smith, OBA No. 30728

**ANDREWS DAVIS**  
A PROFESSIONAL CORPORATION  
ATTORNEYS AND COUNSELLORS AT LAW  
100 N. Broadway, Suite 3300  
Oklahoma City, OK 73102-8812  
Telephone: (405) 272-9241  
Fax: (405) 235-8786  
Email: [aezachritz@andrewsdavis.com](mailto:aezachritz@andrewsdavis.com)  
Email: [ccsmith@andrewsdavis.com](mailto:ccsmith@andrewsdavis.com)

and

Martha M. Hardwick, OBA No. 3847  
HARDWICK LAW OFFICE  
P.O. Box 35975  
Tulsa, OK 74153-0975  
Telephone: (918) 749-3313  
Facsimile: (918) 742-1819  
Email: [mh@hardwicklawoffice.com](mailto:mh@hardwicklawoffice.com)

ATTORNEYS FOR PROTESTANTS

**CERTIFICATE OF SERVICE**

I hereby certify that on the 14th day of April, 2012, a true and correct copy of the above and foregoing was delivered by United States mail, postage prepaid, to the following:

V. Glenn Coffee  
Secretary of State  
2300 N. Lincoln Blvd., Ste. 101  
Oklahoma City, OK 73105-4897

Daniel P. Skerbitz  
P.O. Box 35404  
Tulsa, OK 74153

Daniel P. Skerbitz  
4942 S. 72<sup>nd</sup> E. Ave.  
Tulsa, OK 74145

Rep. Mike Reynolds  
2609 SW 107<sup>th</sup> St.  
Oklahoma City, OK 73170

T. Russell Hunter  
2700 Creekview Place  
Norman, OK 73071

  
\_\_\_\_\_  
ANNE E. ZACHRITZ

# **Exhibit A**

# APPLICATION

APPROVED



## OUT OF STATE ATTORNEY REGISTRATION

David                      Patrick                      Brown, Applicant, respectfully represents:  
First Name                      Middle Name                      Last Name

1. Applicant is an attorney at law and a member of the law firm of Center for Reproductive Rights  
with its principal offices located at 120 Wall Street, 14th Floor

New York, New York, NY, 10005  
City                      County                      State                      Zip Code  
(917) 637-3600, (917) 637-3653, (917) 637-3666  
Telephone (Firm)                      Telephone (Applicant's Direct Dial)                      Fax (Applicant)

dbrown@reprorights.org. If Applicant's office address is different from above,  
E-mail Address (Applicant)

please provide the following: \_\_\_\_\_  
Mailing Address  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
City                      County                      State                      Zip Code

2. Applicant is admitted to practice and is a member in good standing  
(statements attached) of the bar(s) of the highest court(s) of the following  
state(s):

<u>State</u>	<u>Date of Admission</u>
<u>State of New York</u>	<u>6/11/2010</u>

3. Applicant is admitted to practice before the following United States District  
Courts, United States Circuit Courts of Appeal, the Supreme Court of the United  
States, and/or other tribunals on the dates indicated for each, and is presently a  
member in good standing of the bars of said courts:

<u>Tribunal</u>	<u>Date of Admission</u>
<u>U.S. Court of Appeals for the Second Circuit</u>	<u>2010</u>

4. Applicant is not currently suspended or disbarred in any court except as hereinafter provided (Give particulars; e.g. court, jurisdiction, date): \_\_\_\_\_

N/A

5. Applicant is not currently subject to any pending disciplinary proceedings by any organization with authority to discipline attorneys at law except as hereinafter provided (Give particulars; e.g. court, discipline authority, date, status): \_\_\_\_\_

N/A

6. Applicant has never received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law except as hereinafter provided (Give particulars; e.g. court, discipline authority, type of discipline, date, status): \_\_\_\_\_

N/A

7. Applicant has never had any certificate or privilege to appear and practice before any regulatory or administrative body suspended or revoked except as hereinafter provided (Give particulars; e.g. administrative body, date, status of suspension or reinstatement): \_\_\_\_\_

N/A

8. Applicant seeks admission to practice in the State of Oklahoma in the following matter (give particulars; e.g. caption of case, court or agency, type of matter, party to be represented): **Note - A separate application is to be submitted for each matter in which the applicant seeks admission!**

Protest to the constitutionality of Initiative Petition no. 395, State Question no. 761,

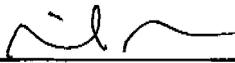
to be filed as an original action in the Supreme Court of Oklahoma.



I am the Applicant in the above referenced matter; I have read the foregoing and know the contents thereof; the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to those matters I believe them to be true.

I further certify that I am subject to the jurisdiction of the Courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the Oklahoma Bar Association; I understand and shall comply with the standards of professional conduct required by members of the Oklahoma Bar Association; and that I am subject to the disciplinary jurisdiction of the Oklahoma Bar Association with respect to any of my actions occurring in the course of such appearance.

DATED this 26<sup>th</sup> day of March, 2012.

  
\_\_\_\_\_  
Applicant

Mail with check or money order (payable to the OBA) to:

Out-of-State Attorney Registration  
Oklahoma Bar Association  
P.O. Box 53036  
Oklahoma City, OK 73152-3036

Form 100B

Addendum to Application of David Brown for Out of State Attorney Registration

10.

<u>Party Name</u>	<u>Counsel Name</u>	<u>Address of Counsel</u>
<u>Dana Stone, MD</u>	<u>Anne Zachritz</u>	<u>See response to 9</u>
<u>Eli Reshef, MD</u>	<u>Anne Zachritz</u>	<u>See response to 9</u>
<u>Larry Burns, DO</u>	<u>Anne Zachritz</u>	<u>See response to 9</u>
<u>Heather Hall</u>	<u>Anne Zachritz</u>	<u>See response to 9</u>
<u>Brittany May</u>	<u>Anne Zachritz</u>	<u>See response to 9</u>
<u>Martha Skeeters, Ph.D.</u>	<u>Anne Zachritz</u>	<u>See response to 9</u>

All parties will also be represented by Martha M. Hardwick, O.B.A. no. 3847, of Hardwick Law Office, P.O. Box 35975, Tulsa, OK 74153.

Telephone: (918) 749-3313

Fax: (918) 742-1819

Email: [mh@hardwicklawoffice.com](mailto:mh@hardwicklawoffice.com)

# **Exhibit B**

Appellate Division of the Supreme Court  
of the State of New York  
First Judicial Department

---

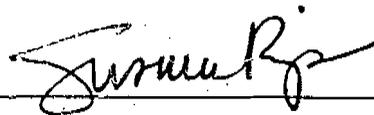
I, Susanna Rojas, Clerk of the Appellate Division of the Supreme Court of the State of New York, First Judicial Department, certify that

**DAVID P. BROWN**

was duly licensed and admitted to practice as an Attorney and Counsellor at Law in all the courts of the State of New York on June 11, 2010, has duly taken and subscribed the oath of office prescribed by law, has been enrolled in the Roll of Attorneys and Counsellors at Law on file in my office, has duly registered with the administrative office of the courts, and according to the records of this court is in good standing as an attorney and counsellor at law.

In Witness Whereof, I have hereunto set my hand and affixed the seal of this court on

March 26, 2012



---

Clerk of the Court

# **Exhibit C**



## Certificate of Compliance

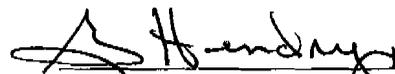
Oklahoma Bar Association  
1901 North Lincoln Boulevard  
Post Office Box 53036  
Oklahoma City, Oklahoma 73152-3036

The Oklahoma Bar Association, in response to the application of out-of-state attorney, submits the following certificate pursuant to 5 O.S. Ch.1 App.1, Art. II

1. Applicant has submitted a signed application of out-of-state attorneys, certificate(s) of good standing, and the non-refundable application fee pursuant to the Rules Creating and Controlling the Oklahoma Bar Association, 5 O.S. Ch. 1, App. 1, Art. II.
2. Date of Application: **March 27, 2012**
3. Application Number: **2012-135**
4. Applying Attorney: **David Patrick Brown**  
**Center for Reproductive Rights, Inc.**  
**120 Wall Street, 14<sup>th</sup> Floor**  
**New York, New York 10005**
5. The Application was: **GRANTED**

Dated this 27<sup>th</sup> day of March, 2012.



  
Gina L. Hendryx, General Counsel  
Oklahoma Bar Association

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

APR 12 2012

MICHELLE D. STOWS  
CLERK

In re: INITIATIVE PETITION No. 395 )  
STATE QUESTION No. 761 )

No. 110,545

**FILED**

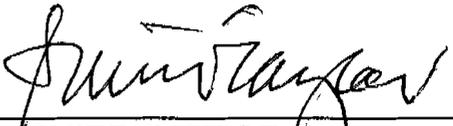
APR 13 2012

OKLAHOMA SECRETARY  
OF STATE

**ORDER**

Protestant's application for an order permitting Michelle Nicole Movahed of the Center for Reproductive Rights, New York, New York, to appear as counsel in this proceeding is granted. Court notes compliance with Art. 2, § 5, Rules Creating and Controlling the Oklahoma Bar Association. 5 O.S.2011, ch. 1, app. 1. Michelle Nicole Movahed may appear as counsel in this proceeding upon filing the required entry of appearance. Okla.Sup.Ct.R. 1.5(a), 12 O.S.2011, ch. 15, app. 1.

DONE BY ORDER OF THE SUPREME COURT this 12<sup>th</sup> day of April, 2012.

  
\_\_\_\_\_  
CHIEF JUSTICE

RECEIVED

APR 13 2012

OKLAHOMA SECRETARY  
OF STATE

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

SUPREME COURT  
OF THE STATE OF OKLAHOMA  
APR 12 2012  
MONTGOMERY  
CLERK

In re: INITIATIVE PETITION No. 395 )  
STATE QUESTION No. 761 )

No. 110,545

**FILED**

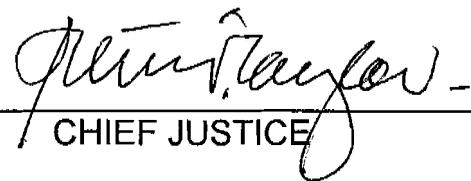
APR 13 2012

OKLAHOMA SECRETARY  
OF STATE

**ORDER**

Protestant's application for an order permitting David Patrick Brown of the Center for Reproductive Rights, New York, New York, to appear as counsel in this proceeding is granted. Court notes compliance with Art. 2, § 5, Rules Creating and Controlling the Oklahoma Bar Association. 5 O.S.2011, ch. 1, app. 1. David Patrick Brown may appear as counsel in this proceeding upon filing the required entry of appearance. Okla.Sup.Ct.R. 1.5(a), 12 O.S.2011, ch. 15, app. 1.

DONE BY ORDER OF THE SUPREME COURT this 12<sup>th</sup> day of April, 2012.

  
CHIEF JUSTICE

RECEIVED  
APR 13 2012  
OKLAHOMA SECRETARY  
OF STATE

APR 13 2012

IN THE OKLAHOMA SUPREME COURT  
STATE OF OKLAHOMA

MICHAEL S. FICHIE  
CLERK

In re: )  
Protest to Initiative Petition 395, )  
State Question 761 )  
)

Case No. 110545

**FILED**

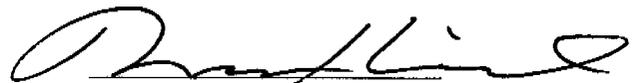
APR 17 2012

OKLAHOMA SECRETARY  
OF STATE

**MOTION TO ASSOCIATE COUNSEL**

Plaintiffs, Brittany Mays Barber, Larry Burns, D.O., Heather Hall, Eli Reshef, M.D., Martha Skeeters, Ph.D., and Dana Stone, M.D., hereby move the Court for an Order permitting Talcott Camp to practice in the above styled and numbered cause pursuant to the Rules Creating and Controlling the Oklahoma Bar Association, 5 O.S. Ch. 1, App.1, Art. II. This motion is supported by the attached "Signed Application" (Exhibit A), "Certificate(s) of Good Standing (Exhibit B), and the "Certificate of Compliance" from the Oklahoma Bar Association (Exhibit C).

Submitted by:



Ryan Kiesel, OBA No. 21254  
ACLU of Oklahoma Foundation  
3000 Paseo Drive  
Oklahoma City, OK 73103  
Tel. (405) 525-3831

RECEIVED

APR 17 2012

OKLAHOMA SECRETARY  
OF STATE

## APPLICATION

APPROVED



## OUT OF STATE ATTORNEY REGISTRATION

Susan Talcott Camp, Applicant, respectfully represents:  
 First Name Middle Name Last Name

1. Applicant is an attorney at law and a member of the law firm of: American Civil

Liberties Union Foundation with its principal offices located at 125 Broad St., Fl. 17  
 Mailing Address

New York City, New York, NY, 10004  
 City County State Zip Code

(212) 549-2651, (212) 549-2632, (212) 549-2652  
 Telephone (Firm) Telephone (Applicant's Direct Dial) Fax (Applicant)

tcamp@aclu.org. If Applicant's office address is different from above,  
 E-mail Address (Applicant)

please provide the following: N/A  
 Mailing Address

\_\_\_\_\_  
 City County State Zip Code

2. Applicant is admitted to practice and is a member in good standing  
 (statements attached) of the bar(s) of the highest court(s) of the following  
 state(s):

<u>State</u>	<u>Date of Admission</u>
<u>New York State</u>	<u>May 22, 1995</u>
<u>New Jersey State</u>	<u>June 29, 1995</u>

3. Applicant is admitted to practice before the following United States District  
 Courts, United States Circuit Courts of Appeal, the Supreme Court of the United  
 States, and/or other tribunals on the dates indicated for each, and is presently a  
 member in good standing of the bars of said courts:

<u>Tribunal</u>	<u>Date of Admission</u>
<u>U.S. District Court for the District of New Jersey</u>	<u>March 1, 1996</u>
<u>U.S. District Court for the Southern District of New York</u>	<u>July 10, 1997</u>
<u>U.S. District Court for the Eastern District of Michigan</u>	<u>March 2, 2000</u>
<u>U.S. District Court for the District of Colorado</u>	<u>May 25, 2000</u>
<u>U.S. Courts of Appeals for the First</u>	<u>January 26, 2000</u>
<u>U.S. Courts of Appeals for the Second Circuit</u>	<u>September 14, 2004</u>
<u>U.S. Courts of Appeals for the Third Circuit</u>	<u>February 8, 1999</u>

4. Applicant is not currently suspended or disbarred in any court except as hereinafter provided (Give particulars; e.g. court, jurisdiction, date): N/A

---

5. Applicant is not currently subject to any pending disciplinary proceedings by any organization with authority to discipline attorneys at law except as hereinafter provided (Give particulars; e.g. court, discipline authority, date, status): N/A

---

6. Applicant has never received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law except as hereinafter provided (Give particulars; e.g. court, discipline authority, type of discipline, date, status): N/A

---

7. Applicant has never had any certificate or privilege to appear and practice before any regulatory or administrative body suspended or revoked except as hereinafter provided (Give particulars; e.g. administrative body, date, status of suspension or reinstatement):  
N/A

---

8. Applicant seeks admission to practice in the State of Oklahoma in the following matter (give particulars; e.g. caption of case, court or agency, type of matter, party to be represented): **Note - A separate application is to be submitted for each matter in which the applicant seeks admission!**

In re: Initiative Petition No. 395, State Question No. 761, No. O-110545 (Okla. March 29, 2012).

This is a protest filed in the Oklahoma Supreme Court challenging Initiative Petition No. 395, State Question No. 761. I will represent the plaintiffs in this case: Brittany Mays Barber, Larry Burns, D.O., Heather Hall, Eli Reshef, M.D., Martha Skeeters, Ph.D., and Dana Stone, M.D.

9. The Oklahoma Bar Association member who is counsel of record for Applicant in this matter is:

Ryan                      Dean                      Kiesel                      Bar # 21254  
First Name                      Middle Name                      Last Name                      O.B.A. Number

3000 Paseo Drive,                      Oklahoma City,                      OK,                      73103  
Mailing Address                      City                      State                      Zip Code

( 405 ) 525-3831                      ,                      ( 405 ) 524-2296                      ,                      ryanaclu@gmail.com  
Telephone Number                      Fax Number                      E-mail Address

10. The following accurately represents the names of each party in this matter and the names and addresses of each counsel of record who appear for that party:

<u>Party Name</u>	<u>Counsel Name</u>	<u>Address of Counsel</u>
-------------------	---------------------	---------------------------

Plaintiffs:

Brittany Mays Barber, Larry Burns, D.O., Heather Hall, Eli Reshef, M.D., Martha Skeeters, Ph.D., and Dana Stone, M.D.

Plaintiffs' Counsel:

Anne E. Zachritz, OBA No. 15608  
Chelsea C. Smith, OBA No. 30728

A PROFESSIONAL CORP.  
ATTORNEYS AND  
COUNSELLORS AT LAW  
100 N. Broadway, Ste. 3300  
Oklahoma City, OK 73102-8812

Martha M. Hardwick  
OBA No. 3847

HARDWICK LAW OFFICE  
P.O. Box 35975  
Tulsa, OK 74153-0975

Michelle Movahed\*  
New York Bar Registration No. 4552063  
Illinois Bar No. 62918636  
David Brown\*  
New York Bar Registration No. 4863544

CENTER FOR  
REPRODUCTIVE RIGHTS  
120 Wall St., 14th Floor  
New York, NY 10005-3904

Ryan D. Kiesel  
OBA No. 21254

ACLU OF OKLAHOMA  
FOUNDATION  
3000 Paseo Dr.  
Oklahoma City, OK 73103

Initiative Sponsors:

Daniel P. Skerbitz  
P.O. Box 35404  
Tulsa, OK 74153

Rep. Mike Reynolds  
2609 SW 107th St.  
Oklahoma City, OK 73170

T. Russell Hunter  
2700 Creekview Place  
Norman, OK 73071

Secretary of State:  
V. Glenn Coffee  
2300 N. Lincoln Blvd., Ste. 101  
Oklahoma City, OK 73105-4897

11. Applicant certifies that he/she shall be subject to the jurisdiction of the courts and disciplinary boards of this state with respect to the laws of this state governing the conduct of attorneys to the same extent as a member of the Oklahoma Bar Association.

12. Applicant understands and shall comply with the standards of professional conduct required of members of the Oklahoma Bar Association.

13. Applicant has disclosed in writing to the client that the Applicant is not admitted to practice in this jurisdiction and the client has consented to such representation.

I, Susan Talcott Camp, do hereby swear/affirm under penalty of perjury that the assertions of this application are true:

I am the Applicant in the above referenced matter; I have read the foregoing and know the contents thereof; the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to those matters I believe them to be true.

I further certify that I am subject to the jurisdiction of the Courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the Oklahoma Bar Association; I understand and shall comply with the standards of professional conduct required by members of the Oklahoma Bar Association; and that I am subject to the disciplinary jurisdiction of the Oklahoma Bar Association with respect to any of my actions occurring in the course of such appearance.

DATED this 2nd day of April, 2012.

Susan Talcott Camp  
Applicant

Appellate Division of the Supreme Court  
of the State of New York  
First Judicial Department

---

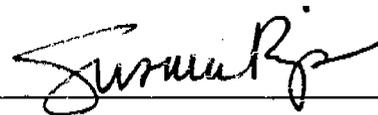
I, Susanna Rojas, Clerk of the Appellate Division of the Supreme Court of the State of New York, First Judicial Department, certify that

**SUSAN TALCOTT CAMP**

was duly licensed and admitted to practice as an Attorney and Counsellor at Law in all the courts of the State of New York on **May 22, 1995**, has duly taken and subscribed the oath of office prescribed by law, has been enrolled in the Roll of Attorneys and Counsellors at Law on file in my office, has duly registered with the administrative office of the courts, and according to the records of this court is in good standing as an attorney and counsellor at law.

In Witness Whereof, I have hereunto set my hand and affixed the seal of this court on

**March 26, 2012**



---

Clerk of the Court

# Supreme Court of New Jersey



## Certificate of Good Standing

This is to certify that **SUSAN TALCOTT CAMP**  
(No. **057061994** ) was constituted and appointed an Attorney at Law of New  
Jersey on **June 29, 1995** and, as such,  
has been admitted to practice before the Supreme Court and all other courts of this State  
as an Attorney at Law, according to its laws, rules, and customs.

I further certify that as of this date, the above-named is an Attorney at Law in  
Good Standing. For the purpose of this Certificate, an attorney is in "Good Standing" if  
the Court's records reflect that the attorney: 1) is current with all assessments imposed as a  
part of the filing of the annual Attorney Registration Statement, including, but not limited  
to, all obligations to the New Jersey Lawyers' Fund for Client Protection; 2) is not  
suspended or disbarred from the practice of law; 3) has not resigned from the Bar of this  
State; and 4) has not been transferred to Disability Inactive status pursuant to Rule 1:20-  
12.

Please note that this Certificate does not constitute confirmation of an attorney's  
satisfaction of the administrative requirements of Rule 1:21-1(a) for eligibility to practice  
law in this State.

In testimony whereof, I have  
hereunto set my hand and  
affixed the Seal of the  
Supreme Court, at Trenton, this  
30TH day of March, 20 12.

Clerk of the Supreme Court



## Certificate of Compliance

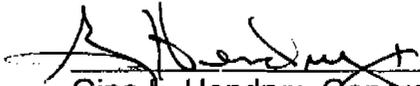
Oklahoma Bar Association  
1901 North Lincoln Boulevard  
Post Office Box 53036  
Oklahoma City, Oklahoma 73152-3036

The Oklahoma Bar Association, in response to the application of out-of-state attorney, submits the following certificate pursuant to 5 O.S. Ch.1 App.1, Art. II

1. Applicant has submitted a signed application of out-of-state attorneys, certificate(s) of good standing, and the non-refundable application fee pursuant to the Rules Creating and Controlling the Oklahoma Bar Association, 5 O.S. Ch. 1, App. 1, Art. II.
2. Date of Application: **April 5, 2012**
3. Application Number: **2012-155**
4. Applying Attorney: **Susan Talcott Camp  
American Civil Liberties Union Foundation  
125 Broad Street, 17<sup>th</sup> Floor  
New York, New York 10004**
5. The Application was: **GRANTED**

Dated this 9<sup>th</sup> day of April, 2012.



  
Gina L. Hendryx, General Counsel  
Oklahoma Bar Association

**CERTIFICATE OF SERVICE**

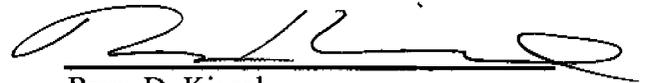
I hereby certify that on this the 13<sup>th</sup> day of April, 2012, a true and correct copy of the above and foregoing Response was placed in the U.S. Mail, first-class postage prepaid, addressed to:

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Ryan D. Kiesel

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

APR 16 2012

MICHAEL S. RICHIE  
CLERK

In re: INITIATIVE PETITION No. 395 )  
STATE QUESTION No. 761 )

No. 110,545

**FILED**

APR 17 2012

OKLAHOMA SECRETARY  
OF STATE

**ORDER**

Protestant's application for an order permitting Susan Talcott Camp of the American Liberties Civil Union Foundation, New York, New York, to appear as counsel in this proceeding is granted. Court notes compliance with Art. 2, § 5, Rules Creating and Controlling the Oklahoma Bar Association. 5 O.S.2011, ch. 1, app. 1. Susan Talcott Camp may appear as counsel in this proceeding upon filing the required entry of appearance. Okla.Sup.Ct.R. 1.5(a), 12 O.S.2011, ch. 15, app. 1.

DONE BY ORDER OF THE SUPREME COURT this 16<sup>th</sup> day of April, 2012.

  
\_\_\_\_\_  
CHIEF JUSTICE

RECEIVED

APR 17 2012

OKLAHOMA SECRETARY  
OF STATE

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In re: )  
)  
INITIATIVE PETITION NO. 395 ) Case No. 110545  
)  
STATE QUESTION NO. 761 )

**FILED**  
**APR 17 2012**  
**OKLAHOMA SECRETARY**  
**OF STATE**

**ENTRY OF APPEARANCE**

The undersigned attorney hereby appears as counsel for Brittany Mays Barber, Larry Burns, D.O., Heather Hall, Eli Reshef, M.D., Martha Skeeters, Ph.D., and Dana Stone, M.D., the Protestants in this case.

Dated: April 13, 2012.

Respectfully submitted,



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\_\_\_\_\_  
Michelle Movahed



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In re: )  
)  
INITIATIVE PETITION NO. 395 ) Case No. 110545  
)  
STATE QUESTION NO. 761 )

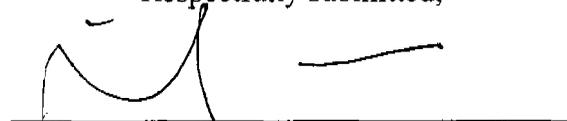
**FILED**  
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ENTRY OF APPEARANCE

The undersigned attorney hereby appears as counsel for Brittany Mays Barber, Larry Burns, D.O., Heather Hall, Eli Reshef, M.D., Martha Skeeters, Ph.D., and Dana Stone, M.D., the Protestants in this case.

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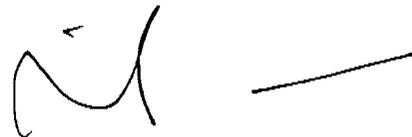
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A handwritten signature in black ink, appearing to be 'David Brown', written above a horizontal line.

David Brown



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

APR 20 2012

MICHAEL S. RICHIE  
CLERK

Case No. 110, 545

In re: )  
INITIATIVE PETITION NO. 395 )  
STATE QUESTION NO. 761 )

FILED

APR 23 2012

OKLAHOMA SECRETARY  
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APR 23 2012

OKLAHOMA SECRETARY  
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IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In re: )  
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STATE QUESTION NO. 761 )

**PROTESTANTS' BRIEF**

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Protestants respectfully submit this brief in support of their request that the Court declare Initiative Petition No. 395 (“IP 395”) unconstitutional, insufficient as a matter of law, and invalid for all purposes.

**I. Preliminary Statement**

Twenty years ago, activists opposed to legal abortion attempted to use Oklahoma’s initiative process to ban abortion, in direct and purposeful violation of the federal Constitution. *In re Initiative Petition No. 349*, 1992 OK 122, ¶¶ 1-2, 838 P.2d 1, 2-3. This Court rejected that attempt, declaring the petition invalid. *Id.* In the decades since, the federal Constitution’s core protection for women’s reproductive autonomy has been repeatedly affirmed by courts throughout the nation, including the U.S. Supreme Court. IP 395’s ban on abortion is even more extreme than the abortion ban proposed—and rejected—twenty years ago. But that is only the tip of the iceberg; the amendment proposed by IP 395 would interfere even more broadly with women’s decisions about procreation by banning the use of common contraceptives as well as restricting physicians’ ability to provide fertility treatments such as *in vitro* fertilization and treat ectopic pregnancies, other high-risk pregnancies, and miscarriages. In so doing, it would strike at the “very heart” of the cluster of choices protected by the guarantee of liberty in the Due Process Clause of the Constitution of the United States.

As it did twenty years ago, this Court should declare the initiative petition invalid for all purposes because it is contrary to the federal Constitution. In addition, this Court should declare the initiative petition invalid because it violates the single-subject rule and lacks a statutorily sufficient “statement of the gist.”

## II. Summary of the Record

IP 395 was filed with the Secretary of State on March 1, 2012. *See* App. A. It seeks to amend the Oklahoma Constitution in two ways: (1) by defining “person” for purposes of Art. II, § 2, of the Constitution to include fertilized eggs and conferring due process rights on each “person” so defined, and (2) by expanding the bases for equal protection of the laws under Art. II, § 7, of the Oklahoma Constitution to include age, place of residence, and medical condition. *Id.* The ballot title submitted with the petition was identical to the “statement of the gist” of the petition. *Id.* The Attorney General reviewed the ballot title for compliance with applicable laws and found that it was legally insufficient because it did not define “beginning of biological development,” a crucial term used in the proposed constitutional amendment; failed to explain the real world effects of the amendment on medical procedures and contraception; defined “person” more broadly than the amendment; and reflected partiality in its composition. *See* App. B. The Attorney General issued a rewritten ballot title on March 16, 2012. *See* App. C. As rewritten, the ballot title explains, among other things, that IP 395 “defines ‘person’ as any human being from ... fertilization”; “vests state constitutional inherent rights, including rights to equal protection regardless of age, place of residence or medical condition and due process rights to ‘persons’”; that it “generally prohibits abortion”; “would prohibit contraception methods that result in termination of a ‘person’”; and, finally, “would affect, but not prohibit, medical procedures such as *in vitro* fertilization.” *Id.* The Attorney General did not rewrite the “statement of the gist.” *Id.*

The effects of IP 395 on reproductive health care would be broad and far-reaching. In addition to banning abortion, banning common contraceptive methods, and restricting

physicians' ability to provide fertility treatments to couples trying to conceive, IP 395 would dramatically restrict physicians' ability to provide care for women with life-threatening conditions that can arise during pregnancy and would curtail the way that physicians could treat women experiencing ectopic pregnancy and miscarriage. *See* App. D at ¶¶ 13-21.

### **III. Argument and Authorities**

#### **A. The Amendment Proposed by IP 395 Violates the Federal Constitution.**

The U.S. and Oklahoma Constitutions compel adherence to the Supreme Court's interpretation of federal law, and the "limited role" of state courts considering such issues is to "apply federal constitutional law, not to make it or guess what it might become." *Initiative Petition No. 349*, 1992 OK 122, ¶ 13, 838 P.2d at 7; *see* U.S. Const. art. VI, cl. 2; Okla. Const. art. I, § 1. Recognizing that it is thus "doubly bound," this Court has clearly and unequivocally affirmed its commitment to "uphold the law of the land whatever it may be." *Initiative Petition No. 349*, 1992 OK 122, ¶¶ 13-14, 838 P.2d at 8. Where, as here, an initiative would plainly violate the federal Constitution, it cannot appear on the ballot; its only effect would be to cause "a costly, fruitless, and useless election [to] take place." *Id.*, 838 P.2d at 12.

There can be no doubt that the liberty protected by the Due Process Clause of the U.S. Constitution encompasses a "cluster of constitutionally protected choices" at the "very heart" of which is the extraordinarily private decision of whether and when to beget or bear a child. *Carey v. Pop. Servs. Int'l*, 431 U.S. 678, 685 (1977); *accord Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 851 (1992) (joint opinion of O'Connor, Kennedy & Souter, JJ). In *Griswold*, the U.S. Supreme Court struck down a ban on contraceptives because it violated married couples' "right of privacy." *Griswold v. Connecticut*, 381 U.S. 479, 486 (1965).

Later cases have clarified that this right extends beyond married couples, *see Eisenstadt v. Baird*, 405 U.S. 438, 453 (1972) (holding that the right to privacy protects single persons no less than married persons), and beyond contraception, *see Roe v. Wade*, 410 U.S. 113, 152-53 (1973) (relying on *Griswold* to articulate women’s right to abortion); *Moore v. City of E. Cleveland*, 431 U.S. 494, 503-06 (1977) (relying on *Griswold* to invalidate a zoning law restricting family members who may co-habit); *Lawrence v. Texas*, 539 U.S. 558, 564-67 (2003) (relying on *Griswold* to hold that same-sex couples have the right to engage in intimate “conduct without intervention of the government”). *Griswold* and its progeny thus establish a sphere of decisional autonomy that places personal decisions about family, childbearing, and intimate relationships beyond the reach of the state. *See Lawrence*, 539 U.S. at 564-67, 573-74. Hence, “[i]f the right of privacy means anything, it is the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child.” *Douglas v. Dobbs*, 419 F.3d 1097, 1102 (10th Cir. 2005) (quoting *Eisenstadt*, 405 U.S. at 453).

By banning abortion, banning common contraceptive methods, restricting physicians’ ability to provide fertility treatments such as *in vitro* fertilization, and restricting physicians’ ability to treat ectopic pregnancies, other high-risk pregnancies, and miscarriages, IP 395 would amend the Oklahoma Constitution to work exactly the kind of unwarranted governmental intrusion that the U.S. Supreme Court has forbidden. Indeed, it would strip Oklahoma women of their “ability . . . to participate equally in the economic and social life of the Nation[, which] has been facilitated by their ability to control their reproductive lives.” *Casey*, 505 U.S. at 856.

In particular, the amendment proposed by IP 395 would ban abortion in all circumstances, forcing every pregnant woman in Oklahoma to carry to term, regardless of her individual circumstances, medical needs, or wishes. *See* App. C. That effect is “diametrically opposed” to federal constitutional law, which clearly precludes the use of Oklahoma’s ballot initiative process to prevent a woman from making “a private decision to obtain an abortion.” *Initiative Petition No. 349*, 1992 OK 122, ¶¶ 11, 15, 838 P.2d at 6, 7. In the twenty years since this Court decided *Initiative Petition No. 349*, the federal courts have repeatedly reaffirmed the federal constitutional protection for a woman’s right to terminate a previability pregnancy. *See, e.g., Lawrence*, 539 U.S. at 565 (reaffirming that “*Roe* recognized the right of a woman to make certain fundamental decisions affecting her destiny”); *Stenberg v. Carhart*, 530 U.S. 914, 920-21 (2000).<sup>1</sup> Thus, today, as in 1992, “the law of the land is that a woman has a constitutionally protected right to make an independent choice to continue or terminate a pregnancy before viability.” *Initiative Petition No. 349*, 1992 OK 122, ¶ 14, 838 P.2d at 7. Accordingly, IP 395 would amend the Oklahoma Constitution to be in direct and inescapable conflict with the federal Constitution.

---

<sup>1</sup> Indeed, in *Stenberg*, the Court explained:

We understand the controversial nature of the problem. Millions of Americans believe that life begins at conception and consequently that an abortion is akin to causing the death of an innocent child; they recoil at the thought of a law that would permit it. Other millions fear that a law that forbids abortion would condemn many American women to lives that lack dignity, depriving them of equal liberty and leading those with the least resources to undergo illegal abortions with the attendant risks of death and suffering. Taking account of these virtually irreconcilable points of view, aware that constitutional law must govern a society whose different members sincerely hold directly opposing views, and considering the matter in light of the Constitution’s guarantees of fundamental individual liberty, this Court, in the course of a generation, has determined and then redetermined that the Constitution offers basic protection to the woman’s right to choose.

*Stenberg*, 530 U.S. 920-21.

That by itself makes IP 395 unconstitutional, but IP 395 would also violate the federal Constitution by banning the most common forms of contraception. In explaining the sphere of decisional autonomy protected by the federal constitutional right to privacy, the U.S. Supreme Court held that “in a field that by definition concerns the most intimate of human activities and relationships, decisions whether to accomplish or to prevent conception are among the most private and sensitive.” *Carey*, 431 U.S. at 685; *accord Skinner v. Oklahoma*, 316 U.S. 535, 536 (1942); *Eisenstadt*, 405 U.S. at 453. IP 395 would ban those forms of contraception, from intrauterine devices (IUDs) to hormonal birth control, whose possible mechanisms of action include preventing the implantation of a fertilized egg, as the Attorney General acknowledged. *See* App. C; *see also* App. D. ¶¶ 8-12. In this way, too, the amendment proposed by IP 395 would put the Oklahoma Constitution in direct conflict with the U.S. Constitution.

Further, IP 395 would restrict physicians’ ability to provide fertility treatments that enable women to exercise their constitutionally protected choice to become pregnant. *See Skinner*, 316 U.S. at 536 (recognizing “the right to have offspring” as “a sensitive and important area of human rights”); *see also Washington v. Glucksberg*, 521 U.S. 702, 726 (1997) (affirming that the liberty interest protected by the federal Due Process Clause encompasses a right to procreate); *Lifchez v. Hartigan*, 735 F. Supp. 1361, 1377 (N.D. Ill. 1990) (“It takes no great leap of logic to see that within the cluster of constitutionally protected choices that includes the right to have access to contraceptives, there must be included ... the right to submit to a medical procedure that may bring about, rather than prevent, pregnancy.”); *Cameron v. Bd. of Educ.*, 795 F. Supp. 228, 237 (S.D. Ohio 1991) (recognizing that the Constitutional privacy right includes a right to become pregnant

through, for example, artificial insemination); accord *Carey*, 431 U.S. at 685. IP 395 would amend the Oklahoma Constitution to restrict physicians' ability to provide fertility treatments, such as *in vitro* fertilization, that inevitably involve destruction of at least some fertilized eggs or embryos. See App. C; App. E ¶¶ 11-13. Here, too, IP 395 would put the Oklahoma Constitution at odds with the U.S. Constitution.

Finally, IP 395 would restrict the ability of physicians to treat women with ectopic pregnancies, other high-risk pregnancies, and miscarriages. See App. D ¶¶ 13-21. In so doing, it would place the lives and health of pregnant women in jeopardy in clear violation of the U.S. Constitution. See *Stenberg*, 530 U.S. at 921; *Casey*, 505 U.S. at 879; *Roe*, 410 U.S. at 164-65.

This Court should therefore prevent IP 395 from reaching the ballot. As the Court observed in 1992, Oklahomans have a "constitutional right[]" to protect the "Oklahoma Constitution" against attempts to make it "repugnant to the Constitution which we all share as Americans." *Initiative Petition No. 349*, 1992 OK 122, ¶ 26, 838 P.2d at 10. Among other things, IP 395 would fundamentally violate the intent of the framers of the Oklahoma Constitution, who "were careful to frame a constitution which was in harmony with the constitution written by the founding fathers" of this country. *Id.* IP 395 seeks to undo the choices made by the Oklahoma Constitution's framers and to pit the state against the federal Constitution. It must not be allowed to do so.

**B. IP 395 Violates the Single-Subject Rule Established by Article 24, Section 1 of the Oklahoma Constitution.**

Under Article 24, § 1, of the Oklahoma Constitution, "[n]o proposal for the amendment or alteration of this Constitution which is submitted to the voters shall embrace more than one general subject." See, e.g., *In re Initiative Petition No. 360*, 1994 OK 97, ¶

18, 879 P.2d 810, 816 (holding that Art. 24, § 1, applies to initiatives). IP 395 violates this “single-subject” rule by addressing at least two general subjects. First, the measure would define “person” for purposes of Art. II, § 2, of the Constitution to include a fertilized egg and confer due process rights on each “person” as so defined. Second, the amendment would expand the bases for equal protection of the laws under Art. II, § 7, of the Oklahoma Constitution to include age, place of residence, and medical condition.<sup>2</sup>

In applying the single-subject rule, this Court has “examine[d] the inherent nature of the provisions to determine whether they are subjects which are separate and independent from each other so that each could stand alone, or fall as a whole, leaving the constitutional scheme harmonious and independent on that subject.” *In re Initiative Petition No. 314*, 1980 OK 174, ¶ 75, 625 P.2d 595, 607. In so doing, the Court considers whether the proposed constitutional amendment offends one of the purposes underlying the single-subject rule, which are (1) to prevent deceit of the voters; and (2) to prevent “logrolling,” the practice of assuring the passage of a law by forcing a voter to approve an undesired provision to secure passage of a desired one, or conversely, forcing a voter to vote against a desired provision to ensure that an undesired provision is not enacted. *See id.* ¶ 59, 625 P.2d at 602; *see also In re Initiative Petition No. 342*, 1990 OK 76, ¶ 4, 797 P.2d at 332; *In re Initiative Petition No. 382*, 2006 OK 45, ¶ 8, 142 P.3d 400, 405. If a voter could reasonably be in favor of one of an initiative’s provisions while being against another, then the initiative fails the single-

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<sup>2</sup> Under current law, the equal protection guarantees of the Oklahoma Constitution are coextensive with those of its federal counterpart. *See, e.g., Presley v. Bd. of Cnty. Comm’rs of Okla. Cnty.*, 1999 OK 45, ¶ 8, 981 P.2d 309, 312. The U.S. Supreme Court has never recognized place of residence as a suspect class, and has expressly held that age and disability are not suspect classes. *See City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 445-46 (1985) (holding that disability is not a suspect class); *Mass. Bd. of Retirement v. Murgia*, 427 U.S. 307, 313-14 (1976) (holding that age is not a suspect class).

subject rule; “Voters should not have to adopt measures of which they really disapprove in order to embrace propositions that they favor.” *Initiative Petition No. 342*, 1990 OK 76, ¶ 10, 797 P.2d at 333.

Here, IP 395 embodies multiple subjects, putting voters in a quandary. Voters who, for example, support extending the equal protection guarantee to include classifications based on age, place of residence and medical condition might well oppose granting rights to fertilized eggs, or vice versa. Or voters who might support expanding equal protection of laws to prevent discrimination based on medical condition might oppose expanding those guarantees based on age or place of residence, or vice versa. Voters are faced with the exact all-or-nothing-choice that the single-subject rule forbids. *Cf. id.; In re Initiative Petition No. 382*, 2006 OK 45 ¶¶ 4, 15 142 P.3d 403-04, 408. As a result, the Oklahoma Constitution forecloses IP 395 from appearing on the ballot.

**C. IP 395’s “Simple Statement of the Gist of the Proposition” is Statutorily Insufficient.**

The “simple statement of the gist of the proposition” appearing on the top margin of each signature sheet of IP 395 is misleading and fails to provide adequate notice about the changes in law proposed by that petition. Accordingly, it falls far short of the requirements of 34 Okla. Stat. § 3. A “statement of the gist” should “at least put [potential signatories] on notice of the changes being made” so that citizens considering the petition can make an informed choice. *In re Initiative Petition No. 384*, 2007 OK 48, ¶ 7, 164 P.3d 125, 129. To provide adequate notice, the gist must explain the petition’s effects in practical terms. *Id.* ¶¶ 7-8, 164 P.3d at 129. Therefore, a statement of the gist is legally insufficient when it is incomplete, uninformative, deceptive, or misleading. *Id.* at ¶¶ 8-9, 164 P.3d at 129.

For example, this Court recently held that a proposed initiative was invalid because the statement of the gist was incomplete and failed to provide notice of several of its key effects. *Initiative Petition No. 384*, 2007 OK 48, ¶ 4, 164 P.3d at 128. Specifically, while the measure proposed by that initiative would have required school districts to spend 65% of their “operational expenses” on classroom instruction and directed the legislature to establish sanctions for non-complying districts, along with standards for waiving them, the statement of the gist completely neglected to mention some of those effects and failed to define “operational expenses.” *Initiative Petition No. 384*, 2007 OK 48, ¶ 3, 11-12, 164 P.3d at 127, 129-30. Accordingly, the Court held that the statement of the gist was legally insufficient. *Id.* ¶ 13, 164 P.3d at 130.

Similarly, in *Initiative Petition No. 342*, the Court found that the statement of the gist was legally insufficient because it listed only a few of the many effects of the proposed changes to the state Constitution. 1990 OK 76, ¶¶ 11-15, 797 P.2d at 333-34.; *see also In re Initiative Petition No. 344*, 1990 OK 75, ¶¶ 12-16, 797 P.2d at 330 (stating that petition to replace an article of the Constitution establishing executive branch did not adequately inform potential signatories that its effect would be to increase the power of the Governor).

The statement of the gist in IP 395 is legally insufficient under these well-established standards. It fails to put potential signatories on notice of the radical changes that IP 395 would make to existing law in at least four ways. First, the statement of the gist fails to explain that the practical effect of the measure would be to ban abortion. *Compare App. A with App. C.* Additionally, by banning the use of common contraceptive methods and restricting the use of fertility treatments, *see App. C*, IP 395 would interfere with women’s right to decide whether and when to conceive. The statement of the gist says nothing about

these crucial real-world effects of IP 395 and is therefore invalid. *See* App. A; *Initiative Petition No. 384*, 2007 OK 48, ¶¶ 11-12, 164 P.3d at 129-30; *Initiative Petition No. 342*, 1990 OK 76, ¶¶ 11-15, 797 P.2d at 333-34.

Second, the statement of the gist is misleading. For example, as the Attorney General determined, the assertion that the proposed amendment “reconcile[s] recent scientific developments with the definition of a human being for the purpose of equal protection under the law” reflects “partiality.” App. B. This “partiality” is misleading because the statement suggests, inappropriately and without evidence, that the measure is based on scientific research. Similarly, the statement claims the amendment “expands the legal definition of humanity or ‘personhood.’” App. A. In fact, IP 395 redefines neither “humanity” nor “personhood;” rather, it would define “person” under the Inherent Rights Clause, and grant due process and equal protection rights to “person[s].” *Id.* Because this language does not correctly explain the proposed amendments to the Oklahoma Constitution, it cannot put potential signatories on notice of them. *See Initiative Petition No. 342*, 1990 OK 76, ¶ 14, 797 P.2d at 333-34; *Initiative Petition No. 344*, 1990 OK 75, ¶ 15, 797 P.2d at 330.

Third, the statement of the gist is incomplete. For example, it inaccurately claims that the amendment “prohibits the intentional killing of any such ‘person’ without due process of law.” App. A. This implies that the amendment would affect only intentional killing. However, the measure’s application is not limited to killing or to intentional acts; rather, it would grant “persons” all the protections of the Inherent Rights Clause. *Id.* Because the statement discloses only one effect of the amendment, without disclosing others, it does not alert potential signatories as to what the proposal would do. *See Initiative Petition No. 384*, 2007 OK 48, ¶¶ 11-12, 164 P.3d at 129-30; *Initiative Petition No. 342*, 1990 OK 76, ¶¶ 11-

15, 797 P.2d at 333-34; *Initiative Petition No. 344*, 1990 OK 75, ¶¶ 12-16, 797 P.2d at 330. Similarly, the statement misstates the amendment's standards for equal protection of the law. Although the amendment secures equal protection regardless of "age, place of residence, or medical condition," the statement of the gist claims it would prohibit discrimination on the bases of "place of residence, race, gender, age, disability, health, level of function, condition of dependency, or method of reproduction." App. A.

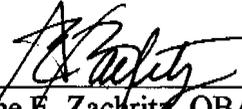
Fourth, the statement of the gist is not informative. It uses the vague and confusing phrase "beginning of the biological development," which the Attorney General found unclear in the proponents' original ballot title. *See* App. B. This term remains unexplained in the statement of the gist, and the rewritten ballot title only highlights how important an explanation of this term is. Without it, the statement of the gist cannot put potential signatories on notice of the amendment's actual effects. *See Initiative Petition No. 384*, 2007 OK 48, ¶ 11, 164 P.3d at 129-130.

#### **IV. Conclusion**

For the foregoing reasons, IP 395 (1) would amend the Oklahoma Constitution to be in direct conflict with the federal Constitution; (2) would violate the single-subject rule of the Oklahoma Constitution; and (3) contains a statutorily insufficient "statement of the gist." Therefore, Protestants respectfully request that this Court declare it unconstitutional, insufficient as a matter of law, and invalid for all purposes.

Dated: April 20, 2012

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that on the 20th day of April, 2012, a true and correct copy of the foregoing Protestants' Brief, together with the Appendix thereto, was sent via certified mail, postage prepaid, to the following persons at the addresses indicated:

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STATE OF OKLAHOMA

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2012 OK 42

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED

MAY 02 2012

In re Initiative Petition No. 395, )  
State Question No. 761 )

No. 110,545 OKLAHOMA SECRETARY )  
For Official publication OF STATE

ORDER

¶ 1 Upon consideration of the Protestants' challenge to the legal sufficiency of Initiative Petition No. 395 which proposes to amend the Oklahoma Constitution in the above styled and numbered cause, THE COURT FINDS:

1. The people of Oklahoma have reserved to themselves "the power to propose laws and amendments to the Constitution." Okla. Const. art. 5, § 1.
2. The proposals, however, are subject to the constitutional limitation that "such changes be not repugnant to the Constitution of the United States." Okla. Const. art. 2, § 1.
3. Therefore, "[a] pre-submission determination of the constitutionality of [an] initiative petition is appropriate and necessary where the proposal is facially unconstitutional and is justified when a costly and futile election may be avoided." In re Initiative Petition No. 349, State Question 642, 1992 OK 122, ¶ 16, 838 P.2d 1, 8. In 2009, the Oklahoma Legislature codified that holding. A protest to the legal sufficiency of an initiative petition must now be heard by this Court in advance of a challenge to the numerical sufficiency of the initiative petition. See Okla. Stat. tit. 34, § 8 (2011).
4. The United States Supreme Court has spoken on this issue. The measure is clearly unconstitutional pursuant to Planned Parenthood v. Casey, 505 U.S. 833 (1992). The states are duty bound to follow its interpretation of the law. Twenty years ago, this Court was

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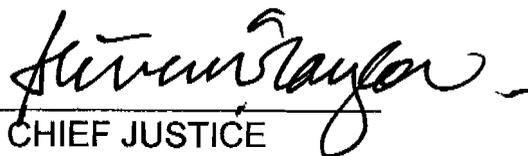
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OF STATE

presented with an initiative which facially conflicted with the Casey decision. This Court held: "The issue of the constitutionality of the initiative petition is governed by the United States Supreme Court's pronouncement in Casey."

5. The only course available to this Court is to follow what the United States Supreme Court, the final arbiter of the United States Constitution has decreed. In re Initiative Petition 349, 1992 OK 122, ¶ 8, 838 P.2d 1, 5.
6. The mandate of Casey is as binding on this Court today as it was twenty years ago. Initiative Petition No. 395 conflicts with Casey and is void on its face and it is hereby ordered stricken.

¶2 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED, that Initiative Petition No. 395 is void on its face and it is hereby ordered stricken.  
DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE this 30th day of April, 2012.

  
CHIEF JUSTICE